

The following information about an actual  
California community illustrates this: .

COMMUNITY PROFILE

POPULATION: 51,000 in 1978

PROJECTED POPULATION: 58,600 in 1984

HOUSING UNITS: 16,930 in 1978

PROJECTED HOUSING UNITS: 21,300 in 1984

PROGRAM DESIGN UNDER §65302(c)

UNITS NEEDING.-ASSISTANCE BY 1984:	2846
. NEW CONSTRUCTION (assist affordability)	800
EXISTING STANDARD UNITS (assist affordability):'	1380
REHAB OF EXISTING SUBSTANDARD	<u>686</u>
TOTAL	2846

In order to meet the total adequate provision requirement of existing law, housing programs would have to be designed using federal, state and local revenues to provide for 2,846 units by 1984.

The Department has determined that under the standard of AB 2853 ("maximum effort" and no expenditure of local funds) the design of housing programs for this same community could be acceptable as follows:

#### PROGRAM DESIGN UNDER AB 2853

UNITS NEEDING ASSISTANCE BY 1984:	2 8 4 6
NEW CONSTRUCTION (assist affordability)	800
EXISTING STANDARD UNITS (assist affordability)	200
REHAB OF EXISTING SUBSTANDARD, UNITS	500
	<hr/>
TOTAL	1500

In terms of program design the cost of planning 2846 units must be compared to the costs of planning for 1500 units. This is arrived at by the application of Table 2.

	2846 (@65302(c))	1500 (AB 2853)
COST	\$1,800	\$1,200

The difference of \$600 is the offsetting savings for preparing a Housing Element under the new law as compared to existing law.



ENVIRONMENTAL AND  
LAND PLANNERS

DECLARATION OF WILLIAM CUNNINGHAM

1. I have been a professional planner for the last thirteen years. From 1968-1973 I was Senior Planner for the County of Orange and oversaw the preparation of the County's Housing Element. I was an Associate Planner for the City of Anaheim in charge of General Planning from 1974-1977.

2. Since 1977 I have been a principal-for Environmental and Land Planners, planning consultants. In this capacity as a private consultant I have been on contract with and have prepared Housing Elements for the following cities: Huntington Park, Villa Park, Yorba Linda, Upland, Walnut, San Dimas, and Covina. These Elements were prepared pursuant to Government Code Section 65302(c) and the 1977 Housing Element Guidelines.

3. I have reviewed and am familiar with the requirements of new Article 10.6 of the Government Code establishing requirements for the Housing Element of the General Plan (AB 2853).

4. It is my professional opinion that the preparation of a Housing Element pursuant to Government Code Section 65302(c), treating

the Housing Element Guidelines as advisory, and the preparation of a Housing Element pursuant to Article 10.6, requires basically the same in terms of planning process, analysis of data and housing program development, and would therefore result in substantially equivalent costs.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 22 day of September, 1981, at Los Angeles, California.

William Cunningham  
WILLIAM CUNNINGHAM





ENVIRONMENTAL AND  
LAND PLANNERS

DECLARATION OF WILLIAM CUNNINGHAM

1. I have been a professional planner for the last thirteen years. From 1968-1973 I was Senior Planner for the County of Orange and oversaw the preparation of the County's Housing Element. I was an Associate Planner for the City of Anaheim in charge of General Planning from 1974-1977.

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3. I have reviewed and am familiar with the requirements of new Article 10.6 of the Government Code establishing requirements for the Housing Element of the General Plan (AB 2853).

4. It is my professional opinion that the preparation of a Housing Element pursuant to Government Code Section 65302(c), treating

the Housing Element Guidelines as advisory, and the preparation of a Housing Element pursuant to Article 70.6, requires basically the same in terms of planning process, analysis of data and housing program development, and would therefore result in substantially equivalent costs.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 22 day of September, 1981, at Los Angeles,  
California.

William Cunningham  
WILLIAM CUNNINGHAM

## SECTION V – B2

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT  
921 - 10th Street  
Sacramento, CA 95814  
(916) 445-4775



RECEIVED

October 6, 1981

OCT 9 1981

STATE BOARD OF CONTROL

Mr. William D. Ross  
Meserve, Munper & Hughes  
Attorneys at Law  
333 South Hope Street  
P. O. Box 54601  
Terminal Annex  
Los Angeles, CA 90054

Dear Mr. Ross:

I would like to clear up some of the misinformation in your letter of October 3 to Ray Banion. While we have no objection to your request to waive the "two-week" rule, we do object to your attempt to place HCD at unilateral fault with respect to your inability to meet the Board's deadline. Your letter reflects the continuing hostility you have exhibited toward HCD, an attitude we feel is a hindrance to our cooperatively developing Parameters and Guidelines for submission to the Board.

The tape of the Parameters and Guidelines meeting on September 3 establishes that you promised to prepare a revised submission within four days of that meeting. You indicated that your comments would be received in Sacramento by September 10. In fact, your revised Parameters and Guidelines were prepared on September 11 and received by regular mail in this office on September 16. While we did not object to your lateness, recognizing that a six-day delay on your part was for some reason necessary, we do object to your attempt to lay total blame on HCD for your present inability to meet the Board's deadlines.

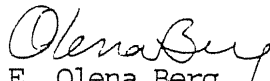
Staff of the Board of Control gave us until September 23 to respond to your comments. In fact, our comments were two days late. Because of this lateness, our pro-proposed Parameters and Guideline-s were hand-carried to the Board of Control office (across the street from HCD) on September 25. We did not send copies to you since it is the Board's practice to forward comments to all interested parties as soon as they receive them. Since the Board received our comments in their office the very day they were prepared, our mailing out of copies would have been merely duplicative and would not have resulted in your receiving our comments any earlier.

Mr. William D. Ross  
October 6, 1981  
Page two

Contrary to your assertion, the tape of the September 3 meeting does not reflect that I agreed to send our ~~comments~~ directly to you. Of course, had you made such a request, we certainly ~~would~~ have gladly agreed and honored the request. You called me on October 1 to request a copy of our ~~comments~~, which I forwarded to you on that day. Although I indicated to you that our ~~comments~~ had already been set to the Board, I did not indicate that it was the day before, as your letter states. In fact, our ~~comments~~ were delivered to the Board on September 25.

As I assess the situation, if it is impossible for you to ~~meet~~ the km-week deadline, all parties contributed to the problem. You were ~~six~~ days late; we ~~were two~~ days late; and the Board should have sent you copies of our ~~comments~~ as soon as they received them. Again, we do not object to your request for a waiver of the deadline, but do request that in ~~communicating~~ with the Board, you state the facts correctly and not impugn the department unfairly.

Sincerely,

  
E. Olena Berg  
Deputy Director

cc: Mr. Ray Banion ✓  
Board of Control

## SECTION V – C1

Section V.C.1

STATE OF CALIFORNIA

EDMUND G. BROWN JR., Governor

STATE- BOARD OF CONTROL

26 J STREET, SUITE 300  
SACRAMENTO, CALIFORNIA 95814



November 20, 1981

Mr. Willaim D. Ross  
Meserve, Mumper, and Hughes  
333 South Hope Street, 35th Floor  
Los Angeles, CA 90071

RE: Proposed Parameters and Guidelines for Reimbursement of  
Mandated Costs Incurred Under Chapter 1143, Statutes of  
1980, 1980-81 F.Y. (Housing Element: Locality's Share.  
of Regional Housing Needs) SB 90-3916

The attached Proposed Parameters and Guidelines for the above entitled claim will be heard by the Board of Control on December 16, 1981, in Room 587, Office Building No. 1, 915 Capitol Mall, Sacramento, California at 9:00 a.m.

The Proposed Parameters and Guidelines reflect input provided by the City of El Monte, Department of Housing and Community Development and Office of the State Controller. Unless there are further concern(s), the attached reimbursement policy will be presented to the Board. However, should there be concern(s), please telephone me by November 26, 1981.

Sincerely,

A handwritten signature in dark ink, appearing to read "Don A. Provost", is written over the typed name.

DON A. PROVOST  
Assistant to the Executive Secretary  
(916) 323-3562

DAP/plf

cc : Carolyn Burton, Department of Housing and Community Development  
Glen Beatie, Office of the State Controller  
Betty Masuoka, Legislative Analyst Office  
Dan Harrison, League of California Cities  
Allan Burdick, County Supervisors Association of California

file

Proposed Parameters and Guidelines,  
Regional Housing Needs: Locality's Fair Share  
(Chapter 1143, Statutes of 1980)

Summary of Mandate

By enacting Chapter 1143/80, the Legislature requires counties and cities to include in the housing elements of their general plans an appropriate share of the regional demand for housing, taking into consideration the following factors:

- Market demand for housing
- Employment opportunities
- Availability of suitable sites and public facilities
- Commuting patterns
- Type and tenure of housing
- Housing needs of farmworkers
- Desire to avoid further impactation of localities with relatively high proportions of lower income households

Board of Control Decision

The Board of Control found that Chapter 1143, Statutes of 1980 constituted a mandate requiring "an increased Level of Service" to be provided by cities and counties on August 19, 1981. The Board acted in response to a "claim of first impression" filed by the City of El Monte on July 7, 1981; County of Los Angeles, on February 19, 1981; and City and County of San Francisco, on February 19, 1981.

Eligible Claimants

Each county, city or city and county (collectively referred to as "localities") which adopts a general plan.

Period of Reimbursement

All costs incurred on or after January 1, 1981, except as otherwise specified under "Reimbursable Costs", are reimbursable. Chapter 1143/80 became effective on January 1, 1981. Only one fiscal year shall be included in each claim. The first claim submitted will report costs incurred from January 1, 1981 to June 30, 1981; the second from July 1, 1981 to June 30, 1982. Pursuant to Revenue and Taxation Code Section 2231, as specified by the State Controller's Office, claims for reimbursement of 1979-80, 1980-81, 1981-82, and 1982-83, fiscal year costs should be submitted within 120 days of the adoption of these parameters and guidelines.

If total costs incurred in a single fiscal year are less than \$200, no reimbursement shall be allowed (RTC Section 2233).

Reimbursable Costs

Revenue and Taxation Code Section 2207 defines "costs mandated by the state" to mean any increased costs resulting from "an increased level of service or new program". Chapter 1143/80 mandates an increased level of service for cities



and counties by requiring that an additional component, the locality's fair share of the regional housing need, be addressed in the housing element of the general plan. The following activities and costs may be reimbursed under these parameters and guidelines.

1. Activity: Upon delegation of responsibility by the Department of Housing and Community Development, identify and determine housing market areas and regional housing needs within the jurisdiction of a locality's general plan. (G. C. Section 65584(b)).

Reimbursable Costs: Salaries and benefits of personnel utilized to identify and determine housing market areas.

2. Activity: Revise the definition of the locality's share of the regional housing need as developed by a council of government or the Department of Housing and Community Development. (G. C. Section 65584(c))

Reimbursable Costs: Salaries and benefits of personnel directly assigned to the revision process.

3. Activity: Adjust data provided by a council of government, Department or Housing and Community Development, or accumulated by Local government to reflect employment opportunities, market demand for housing, availability of suitable sites and public facilities, commuting patterns, type and tenure of housing, and housing needs of farm workers as part of the fair share component of the housing element. (G. C. Section 65584(a))

Reimbursable costs: Salaries and benefits of personnel directly assigned to the preparation of the fair share component of the housing element, including professional staff, clerical support and/or professional and consultant services.

4. Activity: Preparation of draft component of the housing element which depicts locality's fair share of the regional housing need.

Reimbursable Costs: Salaries and benefits of personnel directly assigned to the preparation of this draft component, including professional staff, clerical support and/or professional and consultant services.

5. Activity: Preparation of final component of the housing element which depicts locality's fair share of the regional housing need.

Reimbursement for activities 1 through 5 above shall be subject to the following limitations:

1. Professional staff assigned to the program activities 1 through 5. Reimbursement shall not be made for managers, supervisors or staff who are not directly and functionally assigned to these program activities.
2. Professional and Consultant Services shall be limited to the providing of assistance to the locality's staff in the preparation of the locality's share of the regional housing need component of the housing element.

3. Services and supplies shall be limited to working maps, base maps, charts, graphs and other essential items which are necessary for use in the preparation of the fair share regional housing need component.
4. Staff travel to the Department of Housing and Community Development, and the area council of government for preparation of the locality's fair share regional housing need component shall be reimbursed.
5. Records of actual and necessary staff time to accomplish the mandated activities should be maintained, and the claim must be based on these records.

#### Guidelines For Claim Preparation

This procedure will help local government to organize the data presentation for the various categories of allowable costs that may be claimed. Adherence to this procedure will facilitate the reimbursement process. It will also ensure consistency in the review of the claim and lessen the need by the Controller's Office to contact the claimant for additional information.

##### 1. DESCRIPTION OF ACTIVITY

Workload data as well as invoices and other verifications for supplies, equipment and services etc. related to the preparation of the fair share regional housing need component are requested to support the level of costs claimed. If costs cannot be supported, the costs reported will be disallowed by the Controller. The selection of appropriate data is the responsibility of the claimant.

##### 2. SALARY AND EMPLOYEE'S BENEFITS

Show the classification of the employees involved, mandated function performed, number of hours devoted to the function, hourly rate and fringe benefits.

##### 3. SERVICES AND SUPPLIES

Only expenditures which can be identified as a direct cost as a result of the mandate can be claimed. List costs of material acquired which have been consumed or expended specifically for the purposes of this mandate.

##### 4. ALLOWABLE OVERHEAD COST

Indirect costs may only be claimed through an indirect cost rate proposal prepared in accordance with the provision of Federal Regulation CASC-10 (use in conjunction with FMC-74-4)

##### 5. REQUIRED CERTIFICATION

The following Certification must accompany the claim:

"I DO HEREBY CERTIFY:

THAT sections 1090 to 1096, inclusive, of the Government Code and other applicable provisions of the law have been complied with; and

THAT I am the person authorized by the local agency to file claims with the State of California

Signature of Authorized Representative

Date

Title

Telephone Number

## SECTION V – C2

State of California

## Memorandum

to : Don A. Provost  
Assistant to the Executive Secretary  
State Board of Control  
926 J Streer, Suite 300  
Sacramento, CA 95814

Date : September 24, 1981

Place : Sacramento

From : STATE CONTROLLER'S OFFICE  
DIVISION OF ACCOUNTING

Subject: Proposed Parameters and Guidelines for Reimbursement of Costs Mandated on counties and cities by the State through Chapter 1143, Statutes of 1980; General Plan Housing Element Requirements.

Dear Mr. Provost:

The following are our comments concerning the above proposed Parameters and Guidelines:

"E. Reimbursable Costs"

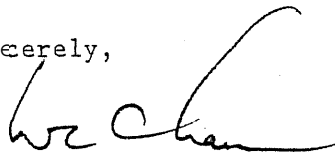
1.(a). At the September 3 meeting, it was stated that contracts were negotiated months ago and could not now be "broken down" by activities. Our office indicated that a contract statement in the Parameters and Guidelines would be acceptable. Mr. Jim Ferguson, of our Division of Audits, will send you comments on the proposed contract statement.

1.(b). This item is acceptable, as presented, to our office.

The balance of items appear to be within the expertise of the Department of Housing and Community Development. Our office will refrain from commenting on these items.

If you have any questions, please contact Mr. Glen Beatie, phone (916) 322-2794.

Sincerely,



Wallace C. Chan, Chief  
Division of Accounting

cc: Jim Ferguson  
Division of Audits

AMENDED IN SENATE JULY 15, 1971

AMENDED IN SENATE JULY 9, 1971

AMENDED IN ASSEMBLY MAY 26, 1971

CALIFORNIA LEGISLATURE—1971 REGULAR SESSION

## ASSEMBLY BILL No. 1301

Introduced by Assemblymen McCarthy, Barnes, Sieroty, and Knox

March 29, 1971

REFERRED TO COMMITTEE ON PLANNING AND LAND USE

*An act to amend Sections 11510, 11511, 11526, 11535, and 11540.1 of, and to add Sections 11526.1, and 11549.5 and 11549.6 to, the Business and Professions Code, and to amend Section 65860 of, to add Sections 65450.1, 65451, and 65452 to, and to repeal Section 65451 of, the Government Code, relating to land planning.*

### LEGISLATIVE COUNSEL'S DIGEST

AB 1301, as amended, McCarthy (P. & L.U.). Land planning.

Amends, adds, repeals, various secs., B. & P.C., Gov. C.

Provides that a city or county shall not approve a tentative or final subdivision map inconsistent with general or specific plans and prohibits approval of final subdivision map unless a specific plan covers the area included within the land project. Prescribes additional definitions for terms "design" and "improvement".

Prescribes matters to be included in specific plans, prescribes application of specific plan, requires county and city zoning ordinances to be consistent with general plans by June 30, 1972 January 1, 1973, and makes other related changes.

Vote—Majority: Appropriation—No—Fiscal Committee—No.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 11510 of the Business and Professions
- 2 Code is amended to read:
- 3 11510. (a) "Design" refers to street alignment, grades
- 4 and widths, alignment and widths of easements and rights-of-
- 5 way for drainage and sanitary sewers and minimum lot area
- 6 and width. "Design" also includes land to be dedicated for
- 7 park or recreational purposes.

1. tious units, which  
2. or financing, which  
3. into five or more pa  
4. apply to the financ

building, commercial  
chapter apply to all  
considered, as to  
roads, streets, alleys  
(b) Subdivisions  
land which is divided  
of land, to a given  
utility shall not be  
of comparing the use

(c) 15.03.2016 14:10:10

16 property improved  
17 on the later equal  
18 contiguous lands  
19 lease, or otherwise  
20 following conditions

(1) The following

21 street or highway  
24 required by the power  
25 (2) Any person  
26 of a gross error of  
27 an approval, license  
28 (3) Any person  
29 in a vehicle shall

34 of land covered there  
31 which have been  
32 alienated and sold

33 (4) Any person  
34 cars, each of a type  
35 of which he is owner  
36 amounting to 100 or  
37 (d) 100 or more

38 Calire hup an  
39 body an  
40 this  
41 ments  
42 an

[illegible]

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**SECRET**



1. tiguous units, which is divided for the purpose of sale, lease,  
2. or financing, whether immediate or future, by any subdivider  
3. into five or more parcels; provided, that this chapter shall not  
4. apply to the financing or leasing of apartments, offices, stores,  
5. or similar space within an apartment building, industrial  
6. building, commercial building, or trailer park, nor shall this  
7. chapter apply to mineral, oil or gas leases. Property shall be  
8. considered as contiguous units even if it is separated by  
9. roads, streets, utility easements, or railroad rights-of-way.

10. (b) Subdivision does not include any parcel or parcels of  
11. land which is divided into four or less parcels. Any conveyance  
12. of land to a governmental agency, public entity or public  
13. utility shall not be considered a division of land for purposes  
14. of computing the number of parcels.

15. (c) Subdivision does not include the division of any real  
16. property improved or unimproved or a portion thereof shown  
17. on the latest equalized county assessment roll as a unit or as  
18. contiguous units, which is divided for the purpose of sale,  
19. lease, or financing, whether immediate or future, if any of the  
20. following conditions prevail:

21. (1) The whole parcel before division contains less than five  
22. acres, each parcel created by the division abuts upon a public  
23. street or highway and no dedications or improvements are  
24. required by the governing body:

25. (2) Any parcel or parcels divided into lots or parcels, each  
26. of a gross area of 20 acres or more, and each of which has  
27. an approved access to a maintained public street or highway.

28. (3) Any parcel or parcels of land having approved access  
29. to a public street or highway which comprises part of a tract  
30. of land zoned for industrial or commercial development, and  
31. which has the approval of the governing body as to street  
32. alignments and widths.

33. (4) Any parcel or parcels of land divided into lots or par-  
34. cels, each of a gross area of forty (40) acres or more or each  
35. of which is a quarter-quarter section or larger, or such other  
36. amount, up to 60 acres, as may be specified by local ordinances.

37. (d) In any case provided in subdivisions (b) or (c), a ten-  
38. tative map or parcel map shall be submitted to the governing  
39. body or advisory agency (in the same manner as provided in  
40. this chapter for subdivisions) for approval as to area, improve-  
41. ments and lot design, flood and water drainage control, and  
42. as to all requirements of this section. Within one year after  
43. approval of the tentative map, a parcel map showing each  
44. new parcel or parcels may be filed with the recorder of the  
45. county concerned. This map shall be filed prior to sale, lease,  
46. or financing of such parcels. Conveyances may be made of  
47. parcels shown on such map by number or other such designa-  
48. tion. Upon application an extension of the approval of the  
49. tentative map may be granted by the governing body or advisory agency.

50. The governing body may require dedications or an offer of  
51. dedication by separate instrument for street opening or widen-  
52.

1 ing or easements. If dedications or offers of dedications are  
2 required, such dedications shall be completed prior to filing of  
3 the parcel map. An offer of dedication shall be in such terms  
4 as to be binding on the owner, his heirs, assigns or successors  
5 in interest, and shall continue until the governing body ac-  
6 cepts or rejects such offer.

7 In the case of subdivision (c)(3), and in the case of sub-  
8 division (b) when local ordinance provides, the governing  
9 body may require the improvement of public or private  
10 streets, highways, ways, or easements as may be necessary for  
11 local traffic, drainage and sanitary needs.

12 (e) Nothing contained in this chapter shall apply to land  
13 dedicated for cemetery purposes under the Health and Safety  
14 Code of the State of California.

15 (f) Nothing contained in this section shall in any way  
16 modify or affect any of the provisions of Section 11000 of the  
17 code.

18 Sec. 6. Section 11540.1 of the Business and Profession  
19 Code is amended to read:

20 11540.1. Nothing in this chapter prevents the governing  
21 body of any municipality or county from regulating the divi-  
22 sion of land which is not a subdivision, provided that such  
23 regulations are not more restrictive than the requirements for  
24 a subdivision. Whenever a local ordinance requires improve-  
25 ments for a division of land which is not a subdivision of more  
26 or more lots, such regulations shall be limited to the dedication  
27 of right-of-way, easements, and the construction of reasonable  
28 offsite and onsite improvements for the parcels being created.  
29 The validity of any conveyance, as defined in Section 12150 of  
30 the Civil Code, made contrary to the provisions of any ordi-  
31 nance prescribing the area or dimensions of lots or parcels  
32 or prohibiting the reduction in area or the separation in own-  
33 ship of land, or requiring the filing of a map of any land to be  
34 divided, shall not be affected, except that any such ordinance  
35 may provide that any deed of conveyance, sale or contract  
36 to sell made contrary to the provisions of such ordinance is  
37 voidable to the extent and in the same manner provided in Sec-  
38 tion 11540.

39 Sec. 7. Section 11549.5 is added to the Business and Pro-  
40 fessions Code, to read:

41 11549.5. A governing body of a city or county shall deny  
42 approval of a final or tentative subdivision map if it makes any  
43 of the following findings:

44 (a) That the proposed map is not consistent with applicable  
45 general and specific plans.

46 (b) That the design or improvement of the proposed sub-  
47 division is not consistent with applicable general and specific  
48 plans.

49 (c) That an adequate supply of vacant lots, currently  
50 offered for sale to the public, designed, engineered and im-  
51 proved according to currently applicable local requirements  
52 already exists in the general location of the proposed subdivi-

1 any such that such  
2 subdivision is not  
3 consistent  
4 (d)  
5 (e) That the  
6 development  
7 (f)  
8 (d) That the  
9 density of develop-  
10 (e)  
11 (e) That the  
12 requirements are  
13 density or subdivi-  
14 lots of their inhabi-  
15 (f)  
16 (f) That the  
17 provisions of this  
18 (d)  
19 (e) That the  
20 provisions will  
21 be at least for each  
22 proposed subdivi-  
23 may appear a map  
24 shown or for any  
25 substantially ex-  
26 public  
27 No  
28 This subdivision  
29 is consistent with  
30 jurisdiction and  
31 body to determine  
32 means for access to  
33 proposed subdivi-  
34 (d) That the  
35 SEC. 12. After  
36 Professions Code, to  
37 11549.5. A govern-  
38 final subdivi-  
39 provisions of this  
40 division and a  
41 compliance with  
42 Sec. 12. Pro-  
43 to read:  
44 11549.5. A govern-  
45 covered by the govern-  
46 since 1991, any  
47 which the govern-  
48 mentioned in the  
49 planning to  
50 shall prepare  
51 work plans to the



1 sion and that such lots are similar to those in the proposed  
2 subdivision in price, size and availability of offsite and onsite  
3 amenities.

4 (d)

5 (c) That the site is not physically suitable for the type of  
6 development.

7 (e)

8 (d) That the site is not physically suitable for the proposed  
9 density of development.

10 (f)

11 (c) That the design of the subdivision or the proposed  
12 improvements are likely to cause substantial environmental  
13 damage or substantially and avoidably injure fish or wild  
14 life of their habitat.

15 (g)

16 (f) That the design of the subdivision or the type of im-  
17 provements is likely to cause serious public health problems.

18 (h)

19 (g) That the design of the subdivision or the type of im-  
20 provements will conflict with easements, acquired by the pub-  
21 lic at large, for access through or use of, property within the  
22 proposed subdivision. In this connection, the governing body  
23 may approve a map if it finds that alternate easements, for  
24 access or for use, will be provided, and that these will be  
25 substantially equivalent to ones previously acquired by the  
26 public.

27 No

28 This subsection shall apply only to easements of record or  
29 to easements established by judgment of a court of competent  
30 jurisdiction and no authority is hereby granted to a governing  
31 body to determine that the public at large has acquired ease-  
32 ments for access through or use of property within the pro-  
33 posed subdivision.

34 (i) That the subdivision is not in the public interest.

35 SEC. 7.5. Section 11549.6 is added to the Business and  
36 Professions Code, to read:

37 11549.6. A governing body shall not deny approval of a  
38 final subdivision map pursuant to Section 11549.5 if it has  
39 previously approved a tentative map for the proposed sub-  
40 division and if it finds that the final map is in substantial  
41 compliance with the previously approved tentative map.

42 SEC. 8. Section 65450.1 is added to the Government Code,  
43 to read:

44 65450.1. A specific plan need not apply to the entire area  
45 covered by the general plan. The legislative body or the plan-  
46 ning agency may designate areas within a city or a county for  
47 which the development of a specific plan will be necessary or  
48 convenient to the implementation of the general plan. The  
49 planning agency may, or if so directed by the legislative body  
50 shall, prepare specific plans for such areas and recommend  
51 such plans to the legislative body for adoption.

1 Sec. 9. Section 65451 of the Government Code is repealed.  
2 Sec. 10. Section 65451 is added to the Government Code  
3 to read:

4 65451. Such specific plans shall include all detailed  
5 regulations, conditions, programs and proposed legislation  
6 which shall be necessary or convenient for the systematic imple-  
7 mentation of each element of the general plan listed in Section  
8 65302, including, but not limited to, regulations, conditions,  
9 programs and proposed legislation in regard to the following:

10 (a) The location of housing, business, industry, open space,  
11 agriculture, recreation facilities, educational facilities, churches  
12 and related religious facilities, public buildings and grounds,  
13 solid and liquid waste disposal facilities, together with regulations  
14 establishing height, bulk and setback limits for  
15 buildings and facilities, including the location of areas, such as  
16 flood plains or excessively steep or unstable terrain, where  
17 building will be permitted in the absence of adequate precau-  
18 tionary measures being taken to reduce the level of risk to  
19 comparable with adjoining and surrounding areas.

20 (b) The location and extent of existing or proposed streets  
21 and roads, their names or numbers, the tentative proposed  
22 widths with reference to prospective standards for their con-  
23 struction and maintenance, and the location and standards  
24 of construction, maintenance and use of all other transpor-  
25 tation facilities, whether public or private.

26 (c) Standards for population density and building density,  
27 including lot size, permissible types of construction, and pro-  
28 visions for water supply, sewage disposal, storm water drain-  
29 age and the disposal of solid waste.

30 (d) Standards for the conservation, development, and utiliza-  
31 tion of natural resources, including underground and surface  
32 waters, forests, vegetation and soils, rivers, creeks, and streams,  
33 and fish and wildlife resources. Such standards shall include,  
34 where applicable, procedures for flood control, for prevention  
35 and control of pollution of rivers, streams, creeks and other  
36 waters, regulation of land use in stream channels and other  
37 areas which may have a significant effect on fish, wildlife,  
38 other natural resources of the area, the prevention, control or  
39 correction of soil erosion caused by subdivision roads or  
40 other sources, and the protection of watershed areas.

41 (e) The implementation of all applicable provisions of the  
42 open-space element as provided in Article 10.5 (commencing  
43 with Section 65560) of this chapter.

44 (f) Such other measures as may be necessary or convenient  
45 to insure the execution of the general plan.

46 Sec. 11. Section 65452 is added to the Government Code  
47 to read:

48 65452. Such specific plans may also include all detailed  
49 regulations, conditions, programs, and proposed legislation  
50 which may be necessary or convenient for the systematic imple-  
51 mentation of any general plan element as provided in Section  
52 65303.



1 SEC. 12. Section 65860 of the Government Code is amended  
2 to read:

3 65860. (a) Except as provided in Article 4 (commencing  
4 with Section 65010), county County or city zoning ordinances  
5 shall be consistent with the general plan of the county or city  
6 by June 30, 1972 January 1, 1973

7 (b) Any resident or property owner within a city or a  
8 county, as the case may be, may bring an action in the superior  
9 court to enforce compliance with the provisions of subdivision

10 (a) Any such action or proceedings shall be governed by  
11 Chapter 2 (commencing with Section 1084) of Title 1 of Part  
12 3 of the Code of Civil Procedure. Any action or proceedings  
13 taken pursuant to the provisions of this subsection must be  
14 taken within six months of June 30, 1972, or within six months  
15 January 1, 1973, or within 90 days of the enactment of any  
16 new zoning ordinance or the amendment of any existing zon-  
17 ing ordinance as to said amendment or amendments.

AMENDED IN SENATE JULY 9, 1971

AMENDED IN ASSEMBLY MAY 13, 1971

CALIFORNIA LEGISLATURE—1971 REGULAR SESSION

**ASSEMBLY BILL** No. 1303

Introduced by Assemblymen McCarthy, Barnes, Sieroty, and Knox

March 29, 1971

REFERRED TO COMMITTEE ON PLANNING AND LAND USE

*An act to add Sections 34211.1 and 65307 to, and to amend Section 34217 of, the Government Code, and to add Section 2115.5 to the Streets and Highways Code, relating to local plans.*

**LEGISLATIVE COUNSEL'S DIGEST**

AB 1303, as amended, McCarthy (P. & L.U.). Local plans.

Amends, adds, various secs., Gov.C.; S. & H.C.

Requires Council on Intergovernmental Relations to adopt criteria and guidelines by July 1, 1972 January 1, 1973, for determining whether preparation and content of city and county general plans contain all required elements. Requires cities and counties beginning October 1, 1973, to indicate degree of compliance in annual report to the council and provides that the Controller, commencing November 1, 1973, shall not transmit apportionments from the Highway Users Tax Fund to cities and counties who have not complied with such requirements requires council to compile and publish list of cities and counties whose plans do not comply.

Vote—Majority; Appropriation—No; Fiscal Committee—Yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 34211.1 is added to the Government
- 2 Code, to read:
- 3 34211.1. In connection with its responsibilities under Sec-
- 4 tion 34211 the council shall develop and adopt criteria for
- 5 and guidelines for determining whether city and county gen-
- 6 eral plans contain all the elements required by Section 65302
- 7 and are adequate to provide a basis for the long-term physical
- 8 development of the city or county as required by Section
- 9 65300. Such criteria the preparation and the minimum content
- 10 of the mandatory elements required in city and county general



1 plans by Section 65302. Such criteria and guideline  
2 into account different geographic, demographic and  
3 evant characteristics among the various cities and  
4 Such criteria and guidelines shall be adopted by the  
5 later than July 1, 1972 January 1, 1973, and shall  
6 larly reviewed and revised thereafter. Upon ad  
7 council shall transmit the criteria and guidelines to  
8 and county.

9 Sec. 2. Section 34217 of the Government Code  
10 to read:

11 34217. (a) Every city, county, or regional planning  
12 established pursuant to law shall file on October  
13 year with the council a complete report of its  
14 and recommendations during the previous fiscal  
15 recommendations for needed legislation respecting  
16 In lieu of the report required by this section a  
17 or regional planning agency may file with the  
18 annual or official report which it files with the legis  
19 or bodies of the city, county, or region in which it

20 (b) Beginning October 1, 1973, the annual report  
21 city or county planning agency filed pursuant to  
22 shall indicate the degree to which its general plan  
23 with the criteria and guidelines for such plans adopted  
24 council pursuant to Section 34211.1. The council shall  
25 such reports and shall determine if any general plan  
26 adequate to comply with the provisions of Section  
27 65302. Section 34211.1. The council shall review  
28 within 30 days of its filing and shall determine, by  
29 degree of compliance with such criteria and guidelines,  
30 the general plan complies with the provisions of Section  
31 and 65302.

32 (c) By October 31, 1973, the council shall submit  
33 Controller a list of those counties and cities which  
34 has determined to have adequate general plans.

35 (d) The council shall review the general plans of  
36 counties and cities that were not found adequate  
37 with Section 65300 or 65302 and shall certify those  
38 are determined to be adequate. When any such  
39 certified, the council shall so notify the Controller  
40 publish a list of those counties and cities whose  
41 comply with Sections 65300 and 65302.

42 Sec. 3. Section 65307 is added to the Government  
43 Code to read:

44 65307. On or before October 1 of each year the  
45 agency of each city or county shall comply with the  
46 of Section 34217.

47 Sec. 4. Section 2115.5 is added to the Streets  
48 and Highways Code, to read:

49 2115.5. (a) Commencing November 1, 1973, the  
50 shall transmit apportionments from the Highway  
51 Fund only to counties and cities on the list transmitted  
52 Council on Intergovernmental Relations pursuant

- 1 34217 of the Government Code or those subsequently listed by
- 2 the council.
- 3 (b) The Controller shall maintain a special trust account
- 4 in the Highway Users Tax Fund into which funds shall be
- 5 collected that would have been apportioned but for the ap-
- 6 plication of subdivision (a). Upon notice from the council
- 7 that a county's or city's general plan has been certified by
- 8 the council, the Controller shall transmit to the county or city
- 9 the amount apportioned to it but held in the special trust
- 10 account.

quiring permit from county planning commission. 33 Ops.Atty.Gen. 143.

Under the Planning Act of 1929, Stats. 1929, p. 1805 repealed 1947, as amended, an area of a county could be so zoned as to exempt building ordinances, and while the size of the parcels of land might not be a valid basis of differentiation, nevertheless by proper zoning such areas might be properly segregated into zones with a minimum or even total lack of building restrictions, the different use to which the land is put as well as the density of the population justifying the difference in zoning. 6 Ops.Atty.Gen. 286.

Under Planning Act of 1929, Stats. 1929, p. 1805, repealed 1947, as amended, a county could be divided into different zones which are based on the type or use of land and on the density, of population of the several districts, and a building ordinance could set up building standards and prescribe their application in varying degrees to the several zones, even to the extent of prescribing that in certain zones building restrictions as to residences should not apply at all. Id.

### 3. Industrial use of property

In action by property owners against city and one to whom city had granted a conditional use permit to excavate for commercial production of rock, sand, and gravel in city, evidence sustained finding that the conditional use permit was not repugnant to master plan for development of city. *Wheeler v. Gregg* (1919) 203 P.2d 37, 90 C.A.2d 343.

### 4. Expense of planning activity

A contract between a county board of supervisors and various cities within the county, under Joint Exercise of Powers Act, Gen.Laws, Act 1801 repealed, Stats. 1921, p. 542, as amended, whereby the county will furnish to the cities the services of a planning commission to make surveys and prepare plans and specifications, reports and recommendations covering all phases of the master plan under The Planning Act of 1929, p. 1805, repealed 1947, and to defray the expenses thereof, would not be in violation of Const. art. 4, § 31 prohibiting a county from making a gift of money to a municipal corporation. 5 Ops.Atty.Gen. 197.

§ 65301. Content of general plan to enable legislative enactment. The general plan shall be so prepared that all or individual elements of it may be adopted by the legislative body, and so that it may be adopted by the legislative body for all or part of the territory of the county or city and such other territory outside its boundaries which in its judgment bears relation to its planning. (Added Stats. 1965, c. 1880, p. 4336, § 5.)

#### Historical Note

Former section 65301, added by Stats. 1953, c. 1355, p. 3914, § 1, related to method of creating a planning department. It was repealed by Stats. 1965, c. 1880, p. 4350, § 8. See, now, § 65200.

See, also, Historical Note preceding section 65300.

§ 65301. 5 Repealed. Stats. 1965, c. 1880, p. 4350, § 8

#### Historical Note

The repealed section, added by Stats. 1961, c. 1706, p. 3688, § 1, related to planning without creating planning commission.

§ 65302. Elements of plan required to be included. The general plan shall consist of a statement of development policies and shall include a diagram or diagrams and text setting forth objectives, principles, standards, and plan proposals. The plan shall include the following elements:

(a) A land use element which designates the proposed general distribution and general location and extent of the uses of the land

for housing, business, industry, agriculture, recreation, education, public buildings and grounds, and other categories of public and private uses of land. The land use element shall include a statement of the standards of population density and building intensity recommended for the various districts and other territory covered by the plan.

(b) A circulation element consisting of the general location and extent of existing and proposed major thoroughfares, transportation routes, terminals, and other local public utilities and facilities, all correlated with the land use element of the plan. (Added Stat.s.1965, c. 1880, p. 4336, § 5.)

#### Historical Note

Former section 65302, added by Stats. 1850, § 8. See, now, sections 65101 and 1953, c. 1355, p. 2914, § 3, related to powers and duties of a planning commission. See, also, Historical Note preceding section 65300. It was repealed by Stats.1965, c. 1880, p.

#### Notes of Decisions

##### 1. Construction and application

Word "education" in former section 65462 with respect to what the master or general zoning plan should consist did not conflict with the power of a school district to locate schools and must be con-

strued with statutes dealing with zoning and the rights of the state. *Town of Atherton v. Superior Court In and For San Mateo County* (1958) 324 P.2d 328, 139 C.A.2d 417.

§ 65303. Elements permitted as part of plan. The general plan may include the following elements or any part or phase thereof:

(a) A conservation element for the conservation, development, and utilization of natural resources including water and its hydraulic force, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals, and other natural resources. The conservation element may also cover:

- (1) The reclamation of land and waters.
- (2) Flood control.
- (3) Prevention and control of the pollution of streams and other waters.
- (4) Regulation of the use of land in stream channels and other areas required for the accomplishment of the conservation plan.
- (5) Prevention, control, and correction of the erosion of soils, beaches, and shores.
- (6) Protection of watersheds.

(b) A recreation element showing a comprehensive system of areas and public sites for recreation, including the following and, when practicable, their locations and proposed development:

- (1) Natural reservations,



# § 65300.5

## GOVERNMENT CODE

### § 65300.5 Construction of article

In construing the provisions of this article, the Legislature intends that the general plan and elements and parts thereof comprise an integrated, internally consistent and compatible statement of policies for the adopting agency. . . . (Added by Stats.1975, c.1104, p.2682, § 2.)

#### Index to Notes

Construction a n d application 1  
Review 2

#### 1. Construction and application

City council did not act arbitrarily or capriciously or without evidentiary support, but rather, acted within the scope of authority and not in violation of the law, in enacting amendments to general plan changing land use designations. *Karlson v. City of Camarillo* (1980) 161 Cal.Rptr. 260, 100 C.A.3d 789.

Under § 65302 relating to city general plans, single-city ordinance containing city

general plan is preferable, in view of fact that legislature intended that local agency's general plan and its elements and parts would comprise an integrated, internally consistent and compatible statement of policies for the adopting agency. *Save El Toro Ass'n v. Days* (1977) 141 Cal.Rptr. 282, 74 C.A.3d 64.

#### 2. Review

This section requiring integrated, internal consistency of a general plan did not modify scope of review of action of city council in enacting amendment to general plan changing land use designations. *Karlson v. City of Camarillo* (1980) 161 Cal.Rptr. 260, 100 C.A.3d 789.

### § 65300.7 Legislative finding

The Legislature finds that the diversity of the state's communities and their residents requires planning agencies and legislative bodies to implement this article in ways that accommodate local conditions and circumstances, while meeting its minimum requirements.

(Added by Stats.1980, c. 837, p. —, § 1.)

#### Library References

Zoning and Land Planning §30.  
C.J.S. Zoning and Land Planning §§ 2, 5, 12, 39.

### § 65301. Content of general plan to enable legislative enactment

#### Law Review Commentaries

Development rights transfer in Livermore: A planning strategy to conserve

open space. Patricia Sheehan Peterson, editor Gerald Richards. (1975) 5 Golden Gate L.Rev. 191.

### § 65301.5 Review of adoption of plan, element or amendment

The adoption of the general plan or any part or element thereof or the adoption of any amendment to such plan or any part or element thereof is a legislative act which shall be reviewable pursuant to Section 1085 of the Code of Civil Procedure.

(Added by Stats.1980, c. 837, p. -, § 2.)

### § 65302. Elements required to be included in plan

*Text of section operative until Oct. 1, 1981.*

The general plan shall consist of a statement of development policies and shall include a diagram or diagrams and text setting forth objectives, principles, standards, and plan proposals. The plan shall include the following elements:

(a) A land use element which designates the proposed general distribution and general location and extent of the uses of the land for housing, business, industry, open space, including agriculture, natural resources, recreation, and enjoyment of scenic beauty, education, public buildings and grounds, solid and liquid waste disposal facilities, and other categories of public and private uses of land. The land use element shall include a statement of the standards of population density and building intensity recommended for the various districts and other territory covered by the plan. The land use element shall also identify areas covered by the plan which are subject to flooding and shall be reviewed annually with respect to such areas.

(b) A circulation element consisting of the general location and extent of existing and proposed major thoroughfares, transportation routes, terminals, and other local public utilities and facilities, all correlated with the land use element of the plan.

(c) A housing element, (to be developed pursuant to regulations established under section 50459 of the Health and Safety Code) consisting of standards and plans for the improvement of housing and for provision of adequate sites for

Underline Indicates changes or additions by amendment

housing. This element shall take into account the needs of all economic classes and all aspects of community development, including but not limited to housing, built housing, but not limited to homes.

(d) A conservation element consisting of natural resources and other water sources. That element shall be developed in cooperation with the county and city agencies for any purpose serving conservation element

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(5) Prevention, of shores.

(6) Protection of

(7) The location of

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(2) Primary

(3) Passenger

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housing. This element of the plan shall make adequate provision for the housing needs of all economic segments of the community. Such element shall consider all aspects of current housing technology, to include provisions for not only site-built housing, but also manufactured housing, including mobilehomes and modular homes.

(d) A conservation element for the conservation, development, and utilization of natural resources including water and its hydraulic force, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals, and other natural resources. That portion of the conservation element including waters shall be developed in coordination with any countywide water agency and with all district and city agencies which have developed, served, controlled or conserved water for any purpose for the county or city for which the plan is prepared. The conservation element may also cover:

- (1) The reclamation of land and waters.
- (2) Flood control.
- (3) Prevention and control of the pollution of streams and other waters.
- (4) Regulation of the use of land in stream channels and other areas required for the accomplishment of the conservation plan.
- (5) Prevention, control, and correction of the erosion of soils, beaches, and shores.

(6) Protection of watersheds.

(7) The location, quantity and quality of the rock, sand and gravel resources.

The conservation element shall be prepared and adopted no later than December 31, 1973.

(e) An open-space element as provided in Article 10.5 (commencing with Section 65560) of this chapter.

(f) A seismic safety element consisting of an identification and appraisal of seismic hazards such as susceptibility to surface ruptures from faulting, to ground shaking, to ground failures, or to effects of seismically induced waves such as tsunamis and seiches.

The seismic safety element shall also include an appraisal of mudslides, landslides, and slope stability as necessary geologic hazards that must be considered simultaneously with other hazards such as possible surface ruptures from faulting, ground shaking, ground failure and seismically induced waves.

To the extent that a county's seismic safety element is sufficiently detailed containing appropriate policies and programs for adoption by a city, a city may adopt that portion of the county's seismic safety element that pertains to the city planning area within the county's jurisdiction, in satisfaction of this subdivision.

In adopting a county seismic safety element, a city shall follow all requirements regarding the content and adoption of general plan elements as set forth in this article and Article 6 (commencing with Section 65350) of this chapter.

Each county and city shall submit to the Division of Mines and Geology of the Department of Conservation one copy of the seismic safety element and any technical studies used for developing the seismic safety element.

(g) A noise element, which shall recognize guidelines adopted by the Office of Noise Control pursuant to Section 46050.1 of the Health and Safety Code, and which quantifies the community noise environment in term of noise exposure contours for both near- and long-term levels of growth and traffic activity. Such noise exposure information shall become a guideline for use in development of the land use element to achieve noise compatible land use and also to provide baseline levels and noise source identification for local noise ordinance enforcement.

The sources of environmental noise considered in this analysis shall include, but are not limited to, the following:

- (1) Highways and freeways.
- (2) Primary arterials and major local streets.
- (3) Passenger and freight on-line railroad operations and ground rapid transit systems.

Asterisks \* \* \* indicate deletions by amendment

(4) Commercial, general aviation, heliport, helistop, and military airport operations, aircraft overflights, jet engine test stands, and all other ground facilities and maintenance functions related to airport operation.

(5) Local industrial plants, including, but not limited to, railroad classification yards.

(6) Other ground stationary noise sources identified by focal agencies as contributing to the community noise environment.

The noise exposure information shall be presented in terms of noise contours expressed in community noise equivalent level (CSEL) or day-night average level (L<sub>dn</sub>). CSEL means the average equivalent A-weighted sound level during a 24-hour day, obtained after addition of five decibels to sound levels in the evening from 7 p.m. to 10 p.m. and after addition of 10 decibels to sound levels in the night before 7 a.m. and after 10 p.m. L<sub>dn</sub> means the average equivalent A-weighted sound level during a 24-hour day, obtained after addition of 10 decibels to sound levels in the night before 7 a.m. and after 10 p.m.

The contours shall be shown in minimum increments of 5db and shall continue down to 60db. For areas deemed noise sensitive, including, but not limited to, areas containing schools, hospitals, rest homes, long-term medical or mental care facilities, or any other land-use areas deemed noise sensitive by the local jurisdiction, the noise exposure shall be determined by monitoring.

A part of the noise element shall also include the preparation of a community noise exposure inventory, current and projected, which identifies the number of persons exposed to various levels of noise throughout the community.

The noise element shall also recommend mitigating measures and possible solutions to existing and foreseeable noise problems.

The state, local, or private agency responsible for the construction, maintenance, or operation of those transportation, industrial, or other commercial facilities specified in paragraph 2 of this subdivision shall provide to the local agency producing the general plan, specific data relating to current and projected levels of activity and a detailed methodology for the development of noise contours given this supplied data, or they shall provide noise contours as specified in the foregoing statements.

It shall be the responsibility of the local agency preparing the general plan to specify the manner in which the noise element will be integrated into the city or county's zoning plan and tied to the land use and circulation elements and to the local noise ordinance. The noise element, once adopted, shall also become the guideline for determining compliance with the state's noise insulation standards, as contained in Section 1092 of Title 25 of the California Administrative Code.

(h) A scenic highway element for the development, establishment, and protection of scenic highways pursuant to the provisions of Article 2.5 (commencing with Section 260) of Chapter 2 of Division 1 of the Streets and Highways Code.

(i) A safety element for the protection of the community from fires and geologic hazards including features necessary for such protection as evacuation routes, peak load water supply requirements, minimum road widths, clearances around structures, and geologic hazard mapping in areas of known geologic hazards.

The elements of the general plan may, at the discretion of the county or city, be combined; provided, however, the county or city complies with all requirements regarding the content and adoption of general plan elements of this article and Article 6 (commencing with Section 65350) of this chapter.

The requirements of this section shall apply to charter cities.

(Amended by Stats.1967, c. 1657, p. 4031, § 4; Stats.1967, c. 1658, p. 4035, § 4, operative July 1, 1969; Stats.1989, c. 932, p. 1870, § 1; Stats.1970, c. 65, p. 80, § 1; Stats.1970, c. 717, p. 1343, § 1; StrGs.1970, c. 1353, p. 3176, § 3; Stats.1970, c. 1590, p. 3310, § 1.5; Stats.1971, c. 140, p. 200, § 1; Stats.1971, c. 150, p. 201, § 1; Stats.1971, c. 775, p. 1524, § 1; Stats.1971, c. 1632, p. 3513, § 1; Stats.1971, c. 1803, p. 3902, § 1.5; Stats.1972, c. 251, p. 499, § 1, urgency, eff. June 30, 1972; Stats.1972, c. 348, p. 661, § 1; Stats.1972, c. 1353, p. 2687, § 3; Stats.1973, c. 120, p. 181, § 2; Stats.1975,

Underline Indicates changes or additions by amendment

c. 1104, p. 2677, urgency, eff. Sec. 1.)

§ 65302. Elements

The general plan shall include a diagram, maps, and plans.

(a) A land use element showing the general location of open space, including scenic beauty, recreational facilities, and use element showing building intensity by the plan. The areas which are subject to the plan.

(b) A circulation and proposed new local public utility plan.

(c) A housing element (Section 65580).

(d) A conservation element showing natural resources, including other waters, and that portion of the coordination with agencies which pose for the community may also include:

- (1) The reclamation
- (2) Flood control
- (3) Prevention of
- (4) Regulation for the accomplishment
- (5) Prevention of
- (6) Protection of
- (7) The location

The conservation element shall be adopted by 31, 1973.

(e) An open-space element (Section 65660) of this chapter.

(f) A seismic hazard element showing seismic hazards such as ground shaking and tsunamis.

The seismic hazard element shall be adopted jointly with other elements of the general plan, including ground shaking, ground

Asterisks \*\*\*

c. 1104, p. 2677, § 1; Stats.1975, c. 1124, p. 2735, § 1.5; Stats.1976, c. 1063, p. 4702, § 1, urgency, eff. Sept. 21, 1976; Stats.1978, c. 953, p. 2939, § 1; Stats.1979, c. 591, p. —, § 1.)

*For text of section operative Oct. 1, 1981, see § 65302, post.*

§ 65302. Elements required to be Included In plan

*Text of section operative Oct. 1, 1981.*

The general plan shall consist of a statement of development policies and shall include a diagram or diagrams and test setting forth objectives, principles, standards, and plan proposals. The plan shall include the following elements:

(a) A land use element which designates the proposed general distribution and general location and extent of the uses of the land for housing, business, industry, open space, including agriculture, natural resources, recreation, and enjoyment of scenic beauty, education, public buildings and grounds, solid and liquid waste disposal facilities, and other categories of public and private uses of land. The land use element shall include a statement of the standards of population density and building intensity recommended for the various districts and other territory covered by the plan. The land use element shall also identify areas covered by the plan which are subject to flooding and shall be reviewed annually with respect to such areas.

(b) A circulation element consisting of the general location and extent of existing and proposed major thoroughfares, transportation routes, terminals, and other local public utilities and facilities, all correlated with the land use element of the plan.

(c) A housing element \* \* \* as provided in Article 10.6 (commencing with Section 65580).

(d) A conservation element for the conservation, development, and utilization of natural resources including water and its hydraulic force, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals, and other natural resources. That portion of the conservation element including waters shall be developed in coordination with any countywide water agency and with all district and City agencies which have developed, served, controlled or conserved water for any purpose for the county or city for which the plan is prepared. The conservation element may also cover:

- (1) The reclamation of land and waters.
- (2) Flood control.
- (3) Prevention and control of the pollution of streams and other waters.
- (4) Regulation of the use of land in stream channels and other areas required for the accomplishment of the conservation plan.
- (5) Prevention, control, and correction of the erosion of soils, beaches, and shores.
- (6) Protection of watersheds.
- (7) The location, quantity and quality of the rock, sand and gravel resources.

The conservation element shall be prepared and adopted no later than December 31, 1973.

(e) An open-space element as provided in Article 10.5 (commencing with Section 65560) of this chapter.

(f) A seismic safety element consisting of an identification and appraisal of seismic hazards such as susceptibility to surface ruptures from faulting, to ground shaking, to ground failures, or to effects of seismically induced waves such as tsunamis and selches.

The seismic safety element shall also include an appraisal of mudslides, landslides, and slope stability as necessary geologic hazards that must be considered simultaneously with other hazards such as possible surface ruptures from faulting, ground shaking, ground failure and seismically induced waves.

Asterisks \* \* \* indicate deletions by amendment

To the extent that a county's seismic safety element is sufficiently detailed containing appropriate policies and programs for adoption by a city, a city may adopt that portion of the county's seismic safety element that pertains to the city planning area within the county's jurisdiction, in satisfaction of this subdivision.

In adopting a county seismic safety element, a city shall follow all requirements regarding the content and adoption of general plan elements as set forth in this article and Article 6 (commencing with Section 65350) of this chapter.

Each county and city shall submit to the Division of Mines and Geology of the Department of Conservation one copy of the seismic safety element and any technical studies used for developing the seismic safety element.

(g) A noise element, which shall recognize guidelines adopted by the Office of Noise Control pursuant to Section 40050.1 of the Health and Safety Code, and which quantifies the community noise environment in terms of noise exposure contours for both near- and long-term levels of growth and traffic activity. Such noise exposure information shall become a guideline for use in development of the land use element to achieve noise compatible land use and also to provide baseline levels and noise source identification for local noise ordinance enforcement.

The sources of environmental noise considered in this analysis shall include, but are not limited to, the following:

- (1) Highways and freeways.
- (2) Primary arterials and major local streets.
- (3) Passenger and freight on-line railroad operations and ground rapid transit systems.
- (4) Commercial, general aviation, heliport, helistop, and military airport operations, aircraft overflights, jet engine test stands, and all other ground facilities and maintenance functions related to airport operation.
- (5) Local industrial plants, including, but not limited to, railroad classification yards.
- (6) Other ground stationary noise sources identified by local agencies as contributing to the community noise environment.

The noise exposure information shall be presented in terms of noise contours expressed in community noise equivalent level (CNEL) or day-night average level ( $L_{dn}$ ). CSEL means the average equivalent A-weighted sound level during a 24-hour day, obtained after addition of five decibels to sound levels in the evening from 7 p.m. to 10 p.m. and after addition of 10 decibels to sound levels in the night before 7 a.m. and after 10 p.m.  $L_{dn}$  means the average equivalent A-weighted sound level during a 24-hour day, obtained after addition of 10 decibels to sound levels in the night before 7 a.m. and after 10 p.m.

The contours shall be shown in minimum increments of 5db and shall continue down to 60db. For areas deemed noise sensitive, including, but not limited to, areas containing schools, hospitals, rest homes, long-term medical or mental care facilities, or any other land-use areas deemed noise sensitive by the local jurisdiction, the noise exposure shall be determined by monitoring.

A part of the noise element shall also include the preparation of a community noise exposure inventory, current and projected, which identifies the number of persons exposed to various levels of noise throughout the community.

The noise element shall also recommend mitigating measures and possible solutions to existing and foreseeable noise problems.

The state, local, or private agency responsible for the construction, maintenance, or operation of those transportation, industrial, or other commercial facilities specified in paragraph 2 of this subdivision shall provide to the local agency producing the general plan, specific data relating to current and projected levels of activity and a detailed methodology for the development of noise contours given this supplied data, or they shall provide noise contours as specified in the foregoing statements.

It shall be the responsibility of the local agency preparing the general plan to specify the manner in which the noise element will be integrated into the city or

Underline Indicates changes or additions by amendment

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3310, § 1.5; Stats.1  
c. 775, p. 1524, § 1  
§ 1.5; Stats.1972,  
348, p. 661, § 1; §  
Stats.1975, c. 1104,  
1063, p. 4702, § 1,  
Stats.1979, c. 591, §

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county's zoning plan and tied to the land use and circulation elements and to the local noise ordinance. The noise element, once adopted, shall also become the guideline for determining compliance with the state's noise insulation standards, as contained in Section 1092 of Title 25 of the California Administrative Code.

(h) A scenic highway element for the development, establishment, and protection of scenic highways pursuant to the provisions of Article 2.5 (commencing with Section 260) of Chapter 2 of Division 1 of the Streets and Highways Code.

(i) A safety element for the protection of the community from fires and geologic hazards including features necessary for such protection as evacuation routes, peak load water supply requirements, minimum road widths, clearances around structures, and geologic hazard mapping in areas of known geologic hazards. \* \* \*

The requirements of this section shall apply to charter cities.

(Amended by Stats.1967, c. 1657, p. 4031, § 4; Stats.1967, c. 1658, p. 4035, § 4, operative July 1, 1969; Stats.1969, c. 932, p. 1870, § 1; Stats.1970, c. 65, p. 80, § 1; Stats.1970, c. 717, p. 1343, § 1; Stats.1970, c. 1353, p. 3176, § 3; Stats.1970, c. 1590, p. 3310, § 1.5; Stats.1971, c. 149, p. 200, § 1; Stats.1971, c. 150, p. 201, § 1; Stats.1971, c. 775, p. 1524, § 1; Stats.1971, c. 1632, p. 3513, § 1; Stats.1971, c. 1803, p. 3902, § 1.5; Stats.1972, c. 251, p. 499, § 1, urgency, eff. June 30, 1972; Stats.1972, c. 348, p. 661, § 1; Stats.1972, c. 1353, p. 2687, § 3; Stats.1973, c. 120, p. 181, § 2; Stats.1975, c. 1104, p. 2677, § 1; Stats.1975, c. 1124, p. 2735, § 1.5; Stats.1976, c. 1063, p. 4702, § 1, urgency, eff. Sept. 21, 1976; Stats.1978, c. 953, p. 2939, § 1; Stats.1979, c. 591, p. —, § 1; Stats.1980, c. 1143, p. —, § 2.)

*For text of section operative until Oct. 1, 1981, see § 65302, ante.*

Housing element guidelines, see 25 Cal. Adm. Code 1690 et seq.; 6300 et seq.

Concentrated rehabilitation area, designation by California housing finance agency, necessity of housing-element guidelines, see Health and Safety Code § 51302.

Housing elements, department of housing and community development to adopt guidelines, see Health and Safety Code § 50459.

Housing elements, statewide housing plan to serve as a guide, see Health and Safety Code § 50453.

Local housing agent, certification of local governing body as agent by the department of housing and community development, necessity of housing element, see Health and Safety Code § 51252.

Scattered-site rehabilitation areas, designation by the California housing finance agency, necessity of plan of enforcement of state or local housing standards, see Health and Safety Code § 51303.

Amendment of this section by § 2 of Stats.1978, c. 953, p. 2942, failed to become operative under the provisions of § 3 of that Act.

Section 5 of Stats.1975, c. 1104, p. 2692, provided:

"It is the intent of the legislature, if this bill and Senate Bill No. 860 [Stats.1975, c. 1124] are both chaptered and become effective January 1, 1976, both bills amend Section 65302 of the Government Code [Section 65302 was so amended] and this bill is chaptered after Senate Bill No. 860 that the amendments to Section 65302 proposed by both bills be given effect and incorporated in Section 65302 in the form set forth in Section 1.5 of this act. Therefore, Section 1.5 of this act shall become operative only if this bill and Senate Bill No. 860 are both chaptered and become effective January 1, 1976, both amend Section 65302, and this bill is chaptered after Senate Bill No. 860, in which case Section 1 of this act shall not become operative."

Section 8 of Stats.1975, c. 1124, p. 2740, provided:

"It is the intent of the Legislature, if this bill and Senate Bill No. 271 [Stats.1975, c. 1104] are both chaptered and become ef-

fective January 1, 1976, both bills amend Section 65302 of the Government Code [Section 65302 was so amended] and this bill is chaptered after Senate Bill No. 271, that the amendments to Section 65302 proposed by both bills be given effect and incorporated in Section 65302 in the form set forth in Section 1.5 of this act. Therefore, Section 1.5 of this act shall become operative only if this bill and Senate Bill No. 271 are both chaptered and become effective January 1, 1976, both amend Section 65302, and this bill is chaptered after Senate Bill No. 271, in which case Section 1 of this act shall not become operative."

Section 3 of Stats.1971, c. 1503, p. 3904, provided: "It is the intent of the Legislature, if this bill and Assembly Bill No. 1378 [Stats.1971, c. 1632] are both chaptered and amend Section 65302 of the Government Code [Section 65302 was so amended], and this bill is chaptered after Assembly Bill No. 1378, that the amendments to Section 65302 proposed by both bills be given effect and incorporated in Section 65302 in the form set forth in Section 1.5 of this act. Therefore, Section 1.5 of this act shall become operative only if this bill and Assembly Bill No. 1378 are both chaptered, both amend Section 65302, and Assembly Bill No. 1378 is chaptered before this bill, in which case Section 1 of this act shall not become operative."

Section 3 of Stats.1970, c. 717, p. 1345, provided: "The legislative body of each city and county shall comply with the amendments to Section 65302 of the Government Code made by Section 1 of this act by July 1, 1972."

Section 17 of Stats.1970, c. 1590, p. 3317, provided: "It is the intent of the Legislature, if amendments to Section 65302 of the Government Code proposed by both this bill and A.B. 1566 [Stats.1970, c. 717] are enacted, that both amendments be given effect and be incorporated in Section 65302 in the form set forth in Section 1.5 of this act. Therefore, in the event A.B. 1566 is enacted and amends Section 65302, Section 1.5 of this act shall become operative at the same time that Section 65302 as amended by A.B. 1566 becomes operative, and at that time, Section 65302 of the Government Code as

Asterisks \* \* \* indicate deletions by amendment



amended by Section 1 of this act is repealed." Chapter 117 was operative Nov. 23, 1970.]

Section 6 of Stats. 1967, c. 1658, p. 4037; provided: "Sections 4 and 5 of this act shall become operative only if Senate Bill 1401 is enacted by the Legislature at its 1967 Regular Session [Stats. 1967, c. 1657] and in such case said sections shall become operative on July 1, 1969; at which time Sections 65302 and 65303 of the Government Code as amended by Sections 1 and 2 of this act are repealed."

1967 Amendments. Inserted "mature resources" in subd. (a) and added subd. (c). 1969 Amendment. Added third sentence to subd. (a).

1970 Amendment. Included "open space" uses generally and included use for "enjoyment of scenic beauty" and for "solid and liquid waste disposal facilities," and added subds. (d) and (e).

1971 Amendment. Inserted, in the first sentence of subd. (c), the words "to be developed pursuant to regulations established under section 37041 of the Health and Safety Code" following "A housing element"; deleted, from the second sentence of subd. (c), the words "endeavor to" following "this element of the plan shall"; substituted, in subd. (e), the reference "Article 10.5 (commencing with Section 65560)" for "Article 10 (commencing with Section 65360)"; and added subds. (f) to (h).

1972 Amendments. Inserted the paragraph following subd. (d)(7) and the second paragraph of subd. (i).

1973 Amendment. Substituted December 31, 1973 for June 30, 1973 for preparation and adoption of the conservation element.

1976 Amendment. Substituted, in subdivision (g), "§ 46050.1" for "§ 39550.1".

1979 Amendment. Substituted reference to "Section 50459" for "Section 41134" and added last sentence in subd. (c).

1980 Amendment. Rewrote subd. (c) which formerly read: "A housing element, to be developed pursuant to regulations established under Section 50459 of the Health and Safety Code, consisting of standards and plans for the improvement of housing and for provision of adequate sites for housing. This element of the plan shall make adequate provision for the housing needs of all economic segments of the community. Such element shall consider all aspects of current housing technology, to include provisions for not only site-built housing, but also manufactured housing, including mobilehomes and modular homes."

Section 5 of Stats. 1980, c. 1143, p. , provided: "Section 2 of this act shall become operative October 1, 1981."

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Open-space land zoning ordinances. Agins v. City of Tiburon, 1980, 100 S.Ct. 2138.

#### Supplementary Index to Notes

Guidelines 5

Injunctive relief 6

Inverse condemnation 4

Ordinances in general 3

Zoning ordinance 2

#### 1. Construction and application

Administrative mandamus was the proper remedy to review denial of building permit to property owner on basis of his failure to dedicate and approve extension of street shown on city's general plan. Selby Realty Co. v. City of San Buenaventura (1973) 109 Cal. Rptr. 799, 514 P.2d 111, 10 C.3d 110.

Wisdom of a traffic circulation plan is for legislature and not courts. Mills v. San Francisco Bay Area Rapid Transit Dist. (1968) 68 Cal. Rptr. 317, 261 C.A.2d 666.

Within proposed subdivision for residential use, improvements for drainage, water supply, flood control, municipal improvements, highways, and sewerage as well as improvements of a permanent and firm nature are both considered as fixed works under Professional Engineers Act. 58 Ops. Atty. Gen. 430, 6-18-75.

A grading plan is also a fixed work if it is executed in connection with an improvement which is a fixed work or, if, standing alone, it is of a permanent and firm nature. Id.

Same individual may not simultaneously serve as county planning commissioner and as member of board of directors of either the Redbud hospital district or the Clear Lake water district. 58 Ops. Atty. Gen. 323, 5-29-75.

Local governments possess the powers necessary, under the Subdivision Map Act, to set general typed of condominium conversion restrictions to prevent major displacement of tenants, scarcity of rental units, the diminishing or defeating of master plan concepts or to require approval by

existing tenant's certain occupancy 41, 1-22-75.

Where no general elements has been the attorney general could compel such an injunction separate action on adoption of the zoning ordinances 15-75.

Section 65860 county zoning and the adopted general plan element and this section, 65303. Id.

This section and Commission of Development to planning standards: improvement of housing of adequate site guidelines referred 37041 which are rules and regulations of secretary of state 10-17-72.

Where, after a general law cities including a map counties and cities tentative or final plan with the housing plan in order to Leg. Counsel, 1972

2. Zoning ordinance

This section housing plans vision for housing elements of the Code provide housing not require it to residents even may live in a town is a Town of LOB Alto 250.

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§ 65302.1 Local

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existing tenants and the requirement for certain occupancy rates. 58 Ops.Atty.Gen. 41, 1-22-75.

Where no general plan or its required elements has been adopted, mandamus by the attorney general and qualified citizens could compel such adoption, the court could enjoin issuance of building permits and separate action could be brought to compel adoption of the general plan and consistent zoning ordinances. 58 Ops.Atty.Gen. 21, 1-15-75.

Section 65860 requires that a city or county zoning ordinance be consistent with the adopted general plan and each adopted general plan element required by § 65303, and this section, or enacted pursuant to § 65303. Id.

This section authorizes and requires the Commission of Housing and Community Development to promulgate regulations setting forth standards and plans for the improvement of housing and for the provision of adequate sites for housing and the guidelines referred to in Health & S. C. 37041 which are to be adopted as formal rules and regulations and be filed with the secretary of state. 55 Ops.Atty.Gen. 380, 10-17-72.

Where, after Jan 1, 1973, counties and general law cities must have a general plan including a mandatory housing element, counties and cities will have to find a tentative or final subdivision map consistent with the housing element of the general plan in order to approve the map. Op. Leg.Counsel, 1972 S.J. 8013.

#### 2. Zoning ordinance

This section requiring towns to adopt housing plans which make adequate provision for housing needs of all economic segments of the community requires town to provide housing for its residents but does not require it to provide housing for non-residents even though the nonresidents may live in a broader community of which the town is a part. Ybarra v. City of Town of Los Altos Hills (C.A.1974) 503 F.2d 250.

Large-lot zoning ordinance was not violative of this section requiring towns to adopt housing plans which make adequate provision for the housing needs of all economic segments of the community. Id.

Section 65860 requires that a city or county zoning ordinance be consistent with the adopted general plan and each adopted general plan element required by this section and § 65302.1, or enacted pursuant to § 65303. 58 Ops.Atty.Gen. 21, 1-15-75.

#### 3. Ordinances in general

Under § 65302 relating to city general plans, single-city ordinance containing city general plan is preferable, in view of fact that legislature intended that local agency's general plan and its elements and parts would comprise an integrated, internally consistent and compatible statement of policies for the adopting agency. Save El Toro Ass'n v. Days (1977) 141 Cal.Rptr. 282, 74 C.A.3d 64.

Where ordinances offered by city as its general plan did not include conservation element, seismic safety element, noise element, scenic highway element, or safety element, ordinances offered did not constitute adequate general plan and city could not have adopted an open-space plan as part of that plan. Id.

#### 4. Inverse condemnation

Cause of action does not lie for inverse condemnation because of adoption of a general plan or because of mere declaration of intent to amend a general plan. Orsetti v. City of Fremont (1978) 146 Cal.Rptr. 75, 80 C.A.3d 961.

Fact that regional planning agency had adopted a land use ordinance and thereafter reclassified certain real property previously zoned, assessed and valued for industrial and commercial uses as "general forest" and for other uses much more restrictive than those previously allowed did not give rise to a cause of action on the part of the landowners for inverse condemnation. Sierra Terreno v. Tahoe Regional Planning Agency (1978) 144 Cal.Rptr. 776, 79 C.A.3d 439, certiorari denied 99 S.Ct. 1497, 440 U.S. 957, 59 L.Ed.2d 770.

#### 5. Guidelines

The department of housing and community development has the authority to adopt advisory housing element guidelines as regulations in order to provide assistance in preparing and maintaining their respective general plans, but such guidelines are not binding. Op.Leg.Counsel, 1979 A.J. 8174; 1979 S.J. 6006.

#### 6. Injunctive relief

In action brought by citizens' group challenging city's proposed street improvement project, trial court was authorized to grant injunctive relief on the basis of inconsistency of the proposed street project with city's general plan and on the basis of the lack of a noise element in city's general plan with which the street project was to be consistent. Friends of "B" St. v. City of Hayward (App.1980) 165 Cal.Rptr. 514.

### § 65302.1 Local conditions and circumstances affecting emphasis on elements

The general plan shall address each of the elements specified in Section 65302 to the extent that the subject of the element exists in the planning area. The degree of specificity and level of detail of the discussion of each such element shall reflect local conditions and circumstances. However, the provisions of this section shall not affect the requirements of subdivision (c) of Section 65302, nor be construed to expand or limit the authority of the Department of Housing and Community Development to review housing elements pursuant to Section 50459 of the Health and Safety Code.

The requirements of this section shall apply to charter cities.

The Office of Planning and Research shall submit to the Legislature by January 1, 1985, a report on the effectiveness of the requirements of this section, recommended changes, if any, in such requirements, and recommendations as to the desirability of continuing such requirements in force after January 1, 1986.

This section shall remain in effect only until January 1, 1986, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1986, deletes or extends such date.

(Added by Stats.1980, c. 837, p. —, § 3.)